



Ed Moloney and Anthony MacIntyre (collectively, the “Applicants for Intervention”), by and through undersigned counsel, James J. Cotter, III MA BBO 101620, Attorney at Law, Post Office Box 270, N. Quincy, MA 02171, and Eamonn Dornan of Dornan & Associates PLLC, 10-40 Jackson Avenue, Long Island City, New York 11101, appearing *pro hac vice*, hereby move the Honorable Court pursuant to Fed. R. App. P. 8 (a)(1), for a stay of the Court’s Order of December 27, 2011 compelling disclosure of materials responsive to the Commissioner’s subpoenae to the Court, ordered for December 30, 2011, and in support of this motion state as follows:

1) The above-named Applicants for Intervention seek to stay production of materials responsive to the Commissioner’s subpoenae at issue, pending the outcome of their appeal, filed on this date, to the First Circuit Court of Appeals from the Order of this Honorable Court of December 16, 2011 (and subsequent Orders implementing that judgment) denying leave to the Applicants for Intervention to intervene in support of the Motions to Quash the Commissioner’s subpoenas filed by Boston College on June 7, 2011 and August 17, 2011.

2) The Applicants for Intervention have also on this date filed an original Complaint, Docket Number 11-mc-12331, which raises claims pursuant to the Administrative Procedures Act, as well as 28 U.S.C. §1361, and 28 U.S.C. §1331, praying for a writ in the nature of mandamus to compel the

Attorney General, and those acting under him, to perform the nondiscretionary duties he owes to the United States and to the Applicants for Intervention under the US-UK MLAT, in conjunction with both 18 U.S.C. §3512 and F.R. Crim.P. 17(c )(2).

3) The Applicants for Intervention submit that an automatic stay of the Order of December 27, 2011 is warranted pursuant to Fed. R. Civ.P, Rule 62, which states that “no execution may issue on a judgment, nor may proceedings be taken to enforce it, until 14 days have passed after its entry.”

4) Additionally, the Applicants for Intervention can demonstrate that a stay is warranted under the test as adopted in this Circuit, namely that they will demonstrate (1) the likelihood of the movant's success on the merits; (2) the potential for irreparable harm to the movant; (3) a balancing of the relevant equities, i.e., the hardship to the nonmovant if the injunction issues as contrasted with the hardship to the movant if interim relief is withheld; and (4) the effect on the public interest of a grant or denial of the injunction. *See Gately v. Massachusetts*, 2 F.3d 1221, 1224 (1st Cir. 1993).

5) In support of this Motion, the Applicants for Intervention state that, if the Order is not stayed, they will suffer irreparable harm in that, if the Tapes (as defined in the Intervenor's Complaint for Intervention) are released to the Police Service of Northern Ireland or the United Kingdom, their claims will be moot and they will suffer irreparable harm, all as set forth in more detail in the attached Affidavits of Ed Moloney, Affidavit of Anthony McIntyre,

Affidavit of Carrie Twomey, and the Exhibits to the Motion of Trustees of Boston College To Quash Subpoenas and the Exhibits attached thereto (D. 5, 5-2, 5-4, 5-5 and 5-6.) and in the Memorandum Of Intervenor In Reply To Government's Opposition To Intervenor's Motion For Leave To Intervene (D. 31.)

6) Accordingly the Applicant seek to stay the enforcement of the Commissioner's initial subpoena according to its terms, namely a stay that of the Order compelling Boston College to produce to the Commissioner on or before Friday, December 30, 2011 the following:

- a. The original tape recordings of any and all interviews of Dolours Price.
- b. Any and all written documents, including but not limited to any and all transcripts, relating to any and all tape recordings of any and all interviews of Dolours Price.
- c. Any and all written notes created in connection with any and all interviews of Dolours Price.
- d. Any and all computer records created in connection with any and all interviews of Dolours Price.

7) The Applicants also seek a stay of the execution of the Honorable Court's intentions to turn over to the Commissioner the materials it has been reviewing in camera pertaining to the initial subpoena of Boston College dated May 2, 2011.

8) Additionally, the Applicants for Intervention move that the Attorney General be enjoined from enforcing the Subpoenas ( as defined in the Intervenor's Complaint) pending this motion or the Intervenor's Motion For Stay Or Injunction Pending Appeal in this Court or pending a similar motion in the United States Court of Appeals for the First Circuit.

Dated: December 29, 2011  
Boston, Massachusetts

Respectfully submitted,

LAW OFFICES OF JAMES J. COTTER,  
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By: /s/James J. Cotter, III

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Certificate of Service

I, James J. Cotter III, hereby certify that this document filed through the CM/ECF system was sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on December 29, 2011.

/s/ James J. Cotter III  
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